

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SALVADOR ROBLES, individually
and on behalf of others
similarly situated,

No. 2:13-cv-00161-JAM-AC

Plaintiffs,

ORDER DENYING DEFENDANT'S MOTION
TO DISMISS

V.

COMTRAK LOGISTICS, INC., a
Delaware Corporation; DOES 1
through 10, inclusive.

Defendants.

16 Defendant Comtrak Logistics, Inc. ("Defendant") moves to
17 dismiss (Doc. #25) the first amended complaint ("the FAC") (Doc.
18 #24). The FAC states twenty-three causes of action for
19 violations of the California Labor Code ("Labor Code") and the
20 California Department of Industrial Relations' Industrial Welfare
21 Commission's Industry and Occupation Orders for the
22 Transportation Industry ("IWC Wage Orders"), Cal. Code Regs. tit.
23 8, § 11090 (2001). Defendant contends each cause of action is
24 preempted by the Federal Aviation Administration Authorization
25 Act of 1994 ("FAAA Act" or "FAAAA"), 49 U.S.C. § 14501(c)(1).
26 For the reasons that follow, Defendant's motion is DENIED.

I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

Defendant is a major provider of full dray truckload

1 transportation services across the country. FAC ¶ 5. Plaintiff
2 Salvador Robles ("Plaintiff") is a former driver for Defendant
3 who was initially classified as an independent contractor and
4 later hired as an employee driver by Defendant. Id. ¶ 3.

5 Plaintiff alleges Defendant retained and exercised
6 significant and pervasive control over all of its drivers,
7 thereby making those drivers Defendant's employees under
8 California law. FAC ¶ 6. Plaintiff claims Defendant has
9 misclassified these drivers as independent contractors in order
10 "to avoid various duties and obligations owed to employees" under
11 the Labor Code and the IWC Wage Orders. FAC ¶ 1.

12 The FAC states the first twelve causes of action ("IC
13 Claims") as a class action on behalf of Plaintiff and a class of
14 drivers who (a) signed an independent contractor and/or equipment
15 lease contract with Defendant; (b) were assigned to an operating
16 terminal in California; and (c) were residents of California
17 ("the Class"). The claims brought on behalf of the Class are:
18 (1) declaratory relief, seeking a declaration that Defendant
19 unlawfully misclassified members of the Class as independent
20 contractors; (2) reimbursement of business expenses based on
21 violations of Labor Code § 2802 and IWC Wage Order #9, §§ 8-9;
22 (3) & (4) failure to pay minimum wage pursuant to California law
23 for actual miles driven and certain other hours worked, including
24 but not limited to during "waiting time," inspections, and
25 fueling; (5) & (6) failure to pay wages in accordance with the
26 designated wage scale in violation of Labor Code §§ 221, 223;
27 (7) quantum meruit/unjust enrichment; (8) failure to provide or
28 pay wages required for meal periods; (9) failure to provide paid

1 rest periods; (10) failure to timely provide itemized wage
2 statements; (11) failure to timely pay compensation due and owing
3 upon discharge; (12) violations of California's Unfair
4 Competition Law, Business and Professions Code § 17200, et seq.
5 ("UCL"). These claims involve obligations owed by an employer to
6 an employee; therefore, each of these causes of action relies on
7 the premise that Defendant improperly classified the drivers as
8 independent contractors when legally they should have been
9 treated as employees under California law.

10 In addition, the FAC restates the same claims found in the
11 second through twelfth causes of action on behalf of Plaintiff
12 individually for labor and wage violations during his time
13 working for Defendant in which he was classified as an employee.
14 These eleven claims, the thirteenth through twenty-third causes
15 of action ("EE Claims"), allege that although Plaintiff was
16 properly classified as an employee by Defendant during the
17 relevant time period, Defendant still failed to abide by the
18 applicable provisions of the Labor Code and the IWC Wage Orders.

19 After the instant motion and responsive briefings were
20 filed, the Court exercised its discretion to stay the action
21 (Doc. #36) on August 5, 2013, pending resolution of appeals in
22 two federal district court cases in California regarding
23 preemption of California law by the FAAA Act. Upon the Ninth
24 Circuit's resolution of the appeals, the Court lifted the stay
25 (Doc. #39) on July 25, 2014. Defendant requested leave to file
26 supplemental briefing (Doc. #41); the Court granted the motion
27 (Doc. #42) on July 30, 2014, further allowing Plaintiff to file a
28 responsive brief. Supplemental briefing was submitted by

1 Defendant (Doc. #43) on August 20, 2014, and by Plaintiff (Doc.
2 #50) on September 3, 2014. Both parties have filed multiple
3 notices of recent decisions (Doc. #26, 34, 51-53) they believe
4 are relevant to the Court's resolution of the current motion,
5 most recently on October 29, 2014.

II. OPINION

A. Request for Judicial Notice

8 Plaintiff requests the Court take notice (Doc. #30) of three
9 documents, attached as Exhibits "A", "B" and "C" (Doc. #29-2, 29-
10 3, 29-4) to the Declaration of Christina Humphrey (Doc. #29-1).

11 Generally, the Court may not consider material beyond the
12 pleadings in ruling on a motion to dismiss for failure to state a
13 claim. The exceptions are material attached to, or relied on by,
14 the complaint so long as authenticity is not disputed, or matters
15 of public record, provided that they are not subject to
16 reasonable dispute. E.g., Sherman v. Stryker Corp., 2009 WL
17 2241664 at *2 (C.D. Cal. Mar. 30, 2009) (citing Lee v. City of
18 Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001) and Fed. R. Evid.
19 201).

20 Exhibit A is a copy of the House of Representatives
21 Conference Report 103-677, discussing the intended application of
22 the FAAA Act. Exhibit B is a copy of President Clinton's
23 Statement on Signing the FAAA Act. As the Court may properly
24 take notice of the legislative history of relevant statutes,
25 Plaintiff's request is GRANTED as to these two documents. Louis
26 v. McCormick & Schmick Rest. Corp., 460 F. Supp. 2d 1153, 1155
27 (C.D. Cal. 2006)

28 Exhibit C is a Department of Transportation notice in which

1 the Federal Motor Carrier Safety Administration ("FMCSA") rejects
2 a petition for preemption. The document discusses whether
3 California meal and rest break laws should be preempted as
4 improper regulations "on commercial motor vehicle safety." The
5 Court does not find the decision of the FMCSA to be relevant to
6 the issue presently before it. Plaintiff's request for notice is
7 therefore DENIED as to this document.

8 B. Discussion

9 Defendant has moved the Court to dismiss the entire FAC. It
10 correctly points out that the IC Claims rely on the allegation
11 that Defendant improperly classified Plaintiff and the Class as
12 independent contractors. MTD at pp. 2-3. Defendant argues this
13 is an "attempt by Plaintiff to dictate the terms of [Defendant's]
14 contractual relationships" with its drivers, and is thus
15 preempted by the FAAA Act. In addition, Defendant argues the EE
16 Claims are an attempt by Plaintiff to force Defendant to "alter
17 its compensation system for company drivers and provide these
18 drivers with meal and rest breaks." Defendant contends these
19 actions are expressly preempted by the FAAA Act. Defendant
20 argues the Court should therefore dismiss the entire FAC with
21 prejudice.

22 1. Legal Standard

23 Federal law may preempt state law under the supremacy clause
24 either by express provision, by implication, or by a conflict
25 between federal and state law. N.Y. Conference of Blue Cross v.
26 Travelers Ins., 514 U.S. 645, 655 (1995) (citations omitted).
27 The motion before the Court is based on a claim of explicit
28 preemption. MTD at p. 6. When addressing preemption claims,

1 "the question whether a certain state action is preempted by
2 federal law is one of congressional intent. The purpose of
3 Congress is the ultimate touchstone." Ingersoll-Rand Co. v.
4 McClendon, 498 U.S. 133, 137-38 (1990). "[W]here federal law is
5 said to bar state action in fields of traditional state
6 regulation," it is assumed that "the historic police powers of
7 the States were not to be superseded by the Federal Act unless
8 that was the clear and manifest purpose of Congress." Blue
9 Cross, 514 U.S. at 655 (citations omitted). The Court must look
10 to the history and context of the FAAA Act, in addition to the
11 statutory language used, in order to determine the intended scope
12 of its preemption clause.

13 2. History of Deregulation

14 In 1978, Congress sought to deregulate the airline industry
15 by enacting the Airline Deregulation Act of 1978 ("ADA"), now
16 codified at 49 U.S.C. § 41713. "In order to 'ensure that the
17 States would not undo federal deregulation with regulation of
18 their own,' that Act 'included a pre-emption provision' that said
19 'no State . . . shall enact or enforce any law . . . relating to
20 rates, routes, or services of any air carrier.'" Rowe v. New
21 Hampshire Motor Transp. Ass'n, 552 U.S. 364, 368 (2008) ("Rowe")
22 (quoting Morales v. Trans World Airlines, Inc., 504 U.S. 374, 378
23 (1992)).

24 In 1980, Congress sought to similarly deregulate the
25 trucking industry by enacting the Motor Carrier Act of 1980. As
26 initially drafted however, the statute did not contain a
27 preemption provision. By 1994, Congress noted that "41
28 jurisdictions regulate[d], in varying degrees, intrastate prices,

1 routes and services of motor carriers." H.R. Conf. Rep. 103-677
2 at 86 (1994) (Humphrey Decl., Exh. A). The report identified the
3 ten jurisdictions it found did not so regulate: Alaska, Arizona,
4 Delaware, the District of Columbia, Florida, Maine, Maryland, New
5 Jersey, Vermont and Wisconsin. Id. The report identified the
6 typical forms of regulation as "entry controls, tariff filing and
7 price regulation, and types of commodities carried." Id.

8 In response to this growing trend in the trucking industry,
9 Congress passed the FAAA Act, which created a preemption
10 provision for the Motor Carrier Act *nearly* identical to that of
11 the ADA. Rowe, 552 U.S. at 368. The FAAA Act provides that a
12 state "may not enact or enforce a law, regulation, or other
13 provision having the force and effect of law related to a price,
14 route, or service of any motor carrier . . . with respect to the
15 transportation of property." 49 U.S.C. § 14501(c)(1).

16 Due to the similarity in the language of the preemption
17 provisions, courts have relied on ADA case law in deciding
18 preemption cases under the Motor Carrier Act. See Rowe, 552 U.S.
19 at 370 ("[W]e follow Morales in interpreting similar language in
20 the 1994 Act before us here."). However, in one of its most
21 recent opinions involving the FAAA Act, the Supreme Court found
22 that Congress' addition of the phrase "with respect to the
23 transportation of property" to the ADA's preemption clause
24 language "massively limits the scope of preemption ordered by the
25 FAAAA." Dan's City Used Cars, Inc. v. Pelkey, 133 S. Ct. 1769,
26 1778 (2013) ("Dan's City"). "[F]or purposes of FAAAA preemption,
27 it is not sufficient that a state law relates to the 'price,
28 route, or service' of a motor carrier in any capacity; the law

1 must also concern a motor carrier's 'transportation of
2 property.'" Id. at 1778-79. Although a law that only indirectly
3 affects the price, route, or service of a motor carrier can be
4 preempted, the FAAAA "does not preempt state laws affecting
5 carrier prices, routes, and services 'in only a "tenuous, remote,
6 or peripheral . . . manner.'" Id. (quoting Rowe, 552 U.S. at
7 371).

8 3. IC Claims

9 Defendant contends the IC Claims are an "attempt by
10 Plaintiff to dictate the terms of [Defendant's] contractual
11 relationships with its owner-operators" and are thus "preempted
12 by the FAAAA Act."

13 In support of this contention, Defendant relies heavily on
14 American Trucking Associations, Inc. v. City of Los Angeles, 559
15 F.3d 1046 (9th Cir. 2009) ("ATA I") and American Trucking
16 Associations, Inc. v. City of Los Angeles, 660 F.3d 384 (9th Cir.
17 2011) ("ATA II"), as amended (Oct. 31, 2011) (rev'd in part sub
18 nom. Am. Trucking Associations, Inc. v. City of Los Angeles, 133
19 S. Ct. 2096 (2013)). MTD at pp. 6, 8, 12-14, 16, 19, 22-24.
20 However, as Plaintiff points out, these cases are inapposite. In
21 the ATA action, the defendant trucking association challenged
22 concession agreements that the Port of Los Angeles was requiring
23 motor carriers to enter into in order to access the port. ATA
24 II, at 390. The provision Defendant seeks to analogize to in ATA
25 I and ATA II required the motor carriers to "cease using
26 independent owner-operators." Id. at 407. Here, Plaintiff's IC
27 Claims involve the illegal misclassification of an employee
28 driver as an independent contractor pursuant to California law.

1 The Court agrees with Plaintiff that Defendant's arguments
2 relying on these cases are misplaced. The FAC does not seek to
3 require Defendant to use only employee drivers rather than
4 independently contracted drivers as attempted in the ATA action.
5 Rather, it seeks to hold Defendant accountable for its obligation
6 to properly classify its drivers. The Court finds the primary
7 issue presently before the Court is whether the California laws
8 governing the classification of workers as either employees or
9 independent contractors is enforceable as to Defendant's business
10 here in California, or whether it is preempted by the FAAA Act.

11 Defendant also spends a portion of its motion arguing that
12 the decision in Californians For Safe & Competitive Dump Truck
13 Transportation v. Mendonca, 152 F.3d 1184, 1189 (9th Cir. 1998)
14 is inapposite. MTD at pp. 21-24. In Mendonca, the Ninth Circuit
15 found the FAAA Act does not preempt California's prevailing wage
16 law. Id. It found that although the wage law was, in a sense,
17 related to and increased the defendant trucking company's prices,
18 the effect was only indirect and tenuous, and therefore did not
19 fall within the FAAA Act's preemptive range. Id. Defendant
20 argues "the reasoning of Mendonca was largely invalidated" by the
21 United States Supreme Court's decision in Rowe, 552 U.S. at 370.
22 However, earlier this year, the Ninth Circuit specifically held
23 that Rowe did not "call into question [the Ninth Circuit's] past
24 FAAAA cases, such as Mendonca." Dilts v. Penske Logistics, LLC,
25 769 F.3d 637, 642-45 (9th Cir. 2014). It went on to state that
26 Rowe "simply reminds us that, whether the effect is direct or
27 indirect, 'the state laws whose effect is forbidden under federal
28 law are those with *significant* impact on carrier rates, routes,

1 or services.'" Id. (quoting Rowe, 552 U.S. at 375) (emphasis in
2 original).

3 Defendant further argues Mendonca is inapplicable because
4 the law implicated there only affected the economic cost for
5 motor carriers to do business in California. MTD at pp. 22-23.
6 Defendant argues the outcome under state law that Plaintiff seeks
7 here would "require" it to use only employee drivers, "the very
8 type of conduct-regulating state action that the FAAA Act
9 forbids." Id. Again, Defendant misstates the FAC, as it does
10 not seek to require Defendant to employ a certain business model.
11 Instead, it simply seeks to hold Defendant accountable for
12 following generally applicable labor laws in California.

13 The reasoning in Mendonca and Dan's City was recently
14 considered by the California Supreme Court in People ex rel.
15 Harris v. Pac Anchor Transp., Inc., 59 Cal. 4th 772, 784-86
16 (2014), a case the Court finds most analogous to the current
17 action. In Harris, the State of California brought a UCL action
18 against a trucking company and its owner for misclassifying
19 drivers as independent contractors and for other alleged
20 violations of California's labor laws. Id. at 775-76. The
21 government's claim was based on violations of the Labor Code and
22 IWC Wage Orders nearly identical to those alleged by Plaintiff
23 here. The defendants contended the FAAA Act preempted the
24 government's claims. Id. at 784-86. Just as Defendant has done
25 in the current motion, the defendants in Harris argued the claim
26 would "significantly affect motor carrier prices, routes, and
27 services because its application [would] prevent their using
28 independent contractors, potentially affecting their prices and

1 services." Id. The government argued the claim was brought
2 because defendants sought to evade their legal responsibilities
3 and to "compete unfairly, by misclassifying their truck drivers
4 as independent contractors." Id.

5 The Harris court reasoned that the holding in Dan's City
6 "strongly supports a finding that California labor and insurance
7 laws and regulations of general applicability are not preempted"
8 under the FAAAA Act. Id. at 784-86. It found the laws underlying
9 the government's claims make no reference to motor carriers or
10 the transportation of property, rather the laws "regulated
11 employer practices in all fields and simply require motor
12 carriers to comply with the labor laws that apply to the
13 classification of their employees." Id. The court found the
14 government's action to enforce the labor laws of California was
15 not an attempt to restrict the defendants' use of independent
16 contractors. Rather, it found the government was simply
17 contending "that if defendants pay individuals to drive their
18 trucks, they must classify these drivers appropriately and comply
19 with generally applicable labor and employment laws." Id.

20 The Harris court noted: "Mendonca concluded that
21 California's generally applicable prevailing wage laws were not
22 preempted by the FAAAA in part because several states Congress
23 identified as not having laws regulating interstate trucking had
24 prevailing wage laws in place at the time the FAAAA was enacted."
25 Id. The court then went on to observe that "eight out of the 10
26 jurisdictions identified in Mendonca had generally applicable
27 laws governing when a worker is an independent contractor (or the
28 equivalent) and when a worker is an employee." Id. (citing

1 Alaska Stat. § 23.20.525; Ariz. Rev. Stat. § 23-902; Del. Code
2 Ann. tit. 19, § 3302; Fla. Stat. § 440.02; Me. Rev. Stat. Ann.
3 tit. 26, § 1043; N.J. Stat. Ann. § 43.21-19; Vt. Stat. Ann. tit.
4 21, § 1301; Wis. Stat. §§ 102.07, 108.02.); see also H.R. Conf.
5 Rep. 103-677 at pp. 86-87. This led the court to conclude that
6 "even though the [] action may have some indirect effect on
7 defendants' prices or services, that effect is too tenuous,
8 remote, [and] peripheral . . . to have pre-emptive effect." Id.
9 (internal citations and quotation marks omitted).

10 In its supplemental brief, Defendant argues Harris is
11 inapplicable and wrongly decided. Def. Supp. Brief (Doc. #43) at
12 pp. 9-10. Although the California Supreme Court's interpretation
13 of federal law is not binding, the Court finds the reasoning in
14 Harris persuasive and concurs in its holding that generally
15 applicable laws regarding the classification of employees are not
16 the type of regulation Congress was attempting to target in the
17 passage of the FAAA Act, as they do not seek to regulate the
18 "intrastate prices, routes and services of motor carriers." See
19 H.R. Conf. Rep. 103-677 at 86.

20 A similar conclusion was reached in Schwann v. FedEx Ground
21 Package Systems, Inc., No. CIV.A. 11-11094-RGS, 2013 WL 3353776,
22 at *3 (D. Mass. 2013). There, the United States District Court
23 for the District of Massachusetts found the Massachusetts law
24 identifying the grounds under which a worker can be classified as
25 an independent contractor, "the Independent Contractor Statute,"
26 was not preempted by the FAAA Act. Id. Applying the reasoning
27 laid out by the United States Supreme Court in Dan's City, the
28 Schwann court held: "Even if the Independent Contractor Statute

1 prevents FedEx from implementing its preferred business model of
2 classifying its delivery drivers as independent contractors
3 (there is no reason to believe that it does not), this does not
4 create a sufficient relationship to its prices, routes, or
5 services to trigger preemption." Id. at *4. The court found the
6 statute had nothing to do with the transportation of property,
7 rather the statue "simply explains to businesses . . . who
8 operate in [Massachusetts] when a worker must be paid as an
9 employee." Id. at *3.

10 The Court finds the outcomes in both Harris and Schwann
11 appropriately effectuate Congress' purpose in passing the FAAA
12 Act and avoid the perverse application of the law to circumvent
13 basic labor protections. Plaintiff's action does not seek to
14 prevent Defendant from utilizing independent contractors in its
15 business model, but merely to comply with the applicable labor
16 laws of the State of California when compensating and classifying
17 its workers. The Court finds the FAAA Act does not preempt
18 California's laws regarding the classification of employees and
19 therefore does not preempt Plaintiff's IC Claims.

20 In its supplemental brief, Defendant discusses at length a
21 recent Supreme Court Case, Northwest, Inc. v. Ginsberg, 134 S.
22 Ct. 1422 (2014). Def. Supp. Brief at pp. 1-6. Defendant
23 contends the case is "directly on point in this case and compels
24 a finding of FAAA Act preemption." However, as pointed out by
25 Plaintiff, Ginsberg has little to no bearing on this case.
26 Plaintiff Supp. Brief (Doc. #50) at pp. 4-5. The issues
27 addressed in Ginsberg were whether the ADA preempts a claim for
28 breach of the implied covenant of good faith and fair dealing

1 under Minnesota law. 134 S. Ct. at 1426. Defendant strains to
2 connect the reasoning therein to its contention here that
3 Defendant should not be subjected to California's generally
4 applicable labor laws.

5 Dilts v. Penske Logistics, LLC, supra, explicitly
6 distinguished generally applicable background regulations such as
7 California's labor laws that are "several steps removed from
8 prices, routes, or services" and those that directly affect the
9 price of services such as the law being applied in Ginsberg. 769
10 F.3d at 646. In support of this reasoning, the Dilts court cites
11 decisions in other circuits making similar distinctions. Id.
12 (citing S.C. Johnson & Son, Inc. v. Transp. Corp. of Am., 697
13 F.3d 544, 558 (7th Cir. 2012) (labor laws not preempted by ADA
14 and FAAA Act because they "operate one or more steps away from
15 the moment at which the firm offers its customer a service for a
16 particular price") and DiFiore v. Am. Airlines, Inc., 646 F.3d
17 81, 88 (1st Cir. 2011) (differentiating law regulating how an
18 airline charges customers from a law that would regulate "merely
19 how the airline behaves as an employer or proprietor")). The
20 Court finds no merit in Defendant's position.

21 4. Meal and Rest Break Laws

22 Defendant dedicates a significant portion of its motion
23 specifically attacking the application of California's Meal and
24 Rest Break laws to the trucking industry, citing a number of
25 federal district court opinions in California. MTD at pp. 1-3,
26 9-11, 15-21. The Court therefore addresses these specific
27 provisions.

28 As stated above, the Court stayed the action pending the

1 resolution of several cases addressing this very issue. After
2 discussing the principles underlying FAAA Act preemption, the
3 Ninth Circuit held:

4 California's meal and rest break laws plainly are not
5 the sorts of laws "related to" prices, routes, or
6 services that Congress intended to preempt. They do
7 not set prices, mandate or prohibit certain routes, or
8 tell motor carriers what services they may or may not
9 provide, either directly or indirectly. They are
"broad law[s] applying to hundreds of different
industries" with no other "forbidden connection with
prices[, routes,] and services." Air Transp. Ass'n [of
America v. City & Cnty. of San Francisco, 266 F.3d
[1064,] 1072 [(9th Cir. 2001)].

10 Dilts, 769 F.3d at 647.

11 In supplemental briefing, Defendant attempts to avoid the
12 effect of this holding by observing that Dilts involved employee
13 drivers and not independent contractors. Def. Supp. Brief at
14 pp. 1, 6-9. The Court finds this attempt to distinguish the
15 cases entirely unpersuasive, especially in light of the Court's
16 holding above that California's laws regarding the classification
17 of employees and independent contractors are not preempted by the
18 FAAA Act.

19 Defendant also argues the reasoning in ATA I and ATA II was
20 not considered in the Dilts opinion and should still control the
21 outcome here, where Plaintiff is attempting to mandate how
22 Defendant provides services. First, contrary to this assertion,
23 the Ninth Circuit repeatedly cited to and relied upon the ATA
24 cases in its opinion. See Dilts, 769 F.3d at 644, 646-47, 649.
25 In addition, the Court again rejects Defendant's assertion that
26 the FAC seeks to *mandate* the use of employee drivers over
27 independent contractors.

28 Defendant further argues that the defendant in Dilts "did

1 not face a 'patchwork' of hour and break laws because the
2 employees drove exclusively within California and were not
3 covered by other state laws or federal hours-of-service
4 regulations." Def. Supp. Brief at p. 8. As pointed out by
5 Plaintiff, the Ninth Circuit specifically clarified that its
6 finding was that California's meal and rest break laws are not
7 preempted as generally applied to motor carriers and did not rely
8 on the intrastate nature of the plaintiffs' work in so holding.
9 Dilts, at 648 n.2. The court expressly concluded that:

10 [A]pplying California's meal and rest break laws to
11 motor carriers would not contribute to an impermissible
12 "patchwork" of state-specific laws, defeating Congress'
13 deregulatory objectives. The fact that laws may differ
14 from state to state is not, on its own, cause for FAAAA
15 preemption. In the preemption provision, Congress was
16 concerned only with those state laws that are
17 significantly "related to" prices, routes, or services.
18 A state law governing hours is, for the foregoing
19 reasons, not "related to" prices, routes, or services
20 and therefore does not contribute to "a patchwork of
21 state service-determining laws, rules, and
22 regulations." Rowe, 552 U.S. at 373 (emphasis added).
23 It is instead more analogous to a state wage law, which
24 may differ from the wage law adopted in neighboring
25 states but nevertheless is permissible. Mendonca, 152
26 F.3d at 1189.

27 Dilts, 769 F.3d at 647-48.

28 5. EE Claims

29 Defendant contends Plaintiff's EE Claims are "inextricably
30 intertwined" with the IC Claims, and for the same reasons are
31 likewise preempted. MTD at p. 24. Defendant does not cite any
32 additional support for its attack on the EE Claims outside of
33 that used in its arguments against the IC Claims. As the Court
34 has found the IC Claims are not preempted, Defendant's contention
35 that the EE Claims are preempted for similar reasons is also
36 rejected. Defendant does briefly characterize these claims as

1 impermissible attempts to dictate how Defendant must compensate
2 its drivers and when they must be provided with meal and rest
3 breaks. The Ninth Circuit has already clearly determined that
4 wage laws and meal and rest break regulations are not preempted
5 by the FAAA Act. See Dilts, 769 F.3d at 646-48; Mendonca, 152
6 F.3d at 1189.

7 6. Summary

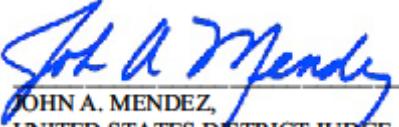
8 The Court finds Defendant's characterization of this action
9 as an attempt to mandate the precise contours of Defendant's
10 provision of services and bind it to carry on its business in a
11 limited way to be misplaced. The Court also finds ample support
12 in the controlling United States Supreme Court and Ninth Circuit
13 precedent for its conclusion that Plaintiff's claims are not
14 preempted. Even if the state laws the FAC seeks to enforce may
15 "increase or change [Defendant's] operating costs" they are
16 "'broad law[s] applying to hundreds of different industries' with
17 no other 'forbidden connection with prices [, routes,]' and
18 services'—that is, [they] do not directly or indirectly mandate,
19 prohibit, or otherwise regulate certain prices, routes, or
20 services," and thus, they are not preempted by the FAAA Act.
21 Dilts, 769 F.3d at 647.

22 III. ORDER

23 For the reasons set forth above, the Court DENIES
24 Defendant's motion to dismiss.

25 IT IS SO ORDERED.

26 Dated: December 18, 2014

27 
28 JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE